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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,606	09/10/2003	Ned H. Neal	BFC-106-C1	5301

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PORTSMOUTH, NH 03801

EXAMINER

GUIDOTTI, LAURA COLE

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 10/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/659,606

Applicant(s)

NEAL, NED H.

Examiner

Laura C. Guidotti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-18 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 25 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 4, 6-7, 9, and 16-17 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim 4 requires that "...each cleaning surface is substantially flat..." and claim 7 requires that "...said core is a cube capable of having six sides..." However, claim 1, from which both claims 4 and 7 depend, previously includes "...a cube-shaped core...six substantially identically dimensioned and substantially flat cleaning surfaces disposed on the exterior of the core." Therefore, each of claims 4 and 7 fail to further limit claim 1.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 4-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Chen, US 5,239,723.

Chen discloses the claimed invention including a cube-shaped core (2; Column 2 Lines 58-61) having an exterior (Figure 1), and six substantially identically dimensioned (by definition, a "cube" is "a hexahedron with six equal squares as faces" according to

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WordNet ® 2.0, © 2003 Princeton University) and substantially flat cleaning surfaces (Figure 1) disposed on the exterior of the core (Figure 1) (claims 1, 4, and 7).

Regarding claims 5-6, the core (2) is foam, plastic, or an open cell foam (Column 6 Lines 50-57). Regarding claim 8, the device further includes a holding apparatus (6).

3. Claims 1, 4, 7-8, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Reach, US 2,038,957.

Reach discloses the claimed invention including a cube-shaped core (A; Figure) having an exterior (outer surface of A, Figure), and six substantially identically dimensioned and substantially flat cleaning surfaces disposed on the exterior of the core (Figure) (claims 1, 4, and 7). Regarding claims 8 and 10, there is a holding apparatus or holder (Page 2 Column 1 Lines 5-8) that has a receiving portion (tong portion, Page 2 Column 1 Lines 5-8).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-3 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reach, US 2,038,957 as applied to claims 1 and 10 in view of Kubit et al., US 3,137,880.

Reach discloses all elements disclosed above, however does not disclose a holder having a receiving portion dimensioned to allow selective removal and reinsertion

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of the core, wherein the holder exposes at least one cleaning surface of the core or a scraper.

Kubit et al. teaches a holder or holding apparatus having a receiving portion (jaws 32 and 34) dimensioned to allow selective removal and reinsertion of a core (core is 24; Column 1 Lines 65-69), wherein the holder exposes at least one cleaning surface of the core (see Figures 1-3). Kubit et al. further includes a scraper (teeth 36 and 38 are capable of scraping).

It would have been obvious for one of ordinary skill in the art to substitute the holder or holding apparatus of Reach for one that includes a receiving portion dimensioned to allow selective removal and reinsertion of the core, wherein the holder exposes at least one cleaning surface of the core and a scraper, as Kubit et al. teaches, in order to sufficiently clamp and further retain the core to the handle.

5. Claim 1, 2, 4-5, 7-8, 10, and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grossmeyer, USPN 2,940,100 in view of Earle, USPN 5,806,135.

Grossmeyer discloses the claimed invention including a core having an exterior (5; see Figures) and a plurality of substantially identically dimensioned cleaning surfaces that are substantially flat disposed on the exterior of the core (each of the parallel sides are substantially identically dimensioned; see Figures). There is a holder or holding apparatus (3) having a receiving portion (4) dimensioned to allow selective removal and reinsertion of the core (Column 2 Lines 20-27), wherein the holder exposes at least one cleaning surface of the core (as shown in Figure 5). The core consists of plastic (6; Column 2 Lines 55-57). Grossmeyer does not disclose that the core and

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cleaning surfaces comprise a one piece foam cube having six substantially identically dimensioned cleaning surfaces.

Earle teaches a core (10) that has an exterior (see Figures) and a plurality of substantially identically dimensioned cleaning surfaces having some that are substantially flat disposed on the exterior of the core (12, 14; Column 2 Lines 12-15). The core is a cube having six cleaning surfaces (Column 2 Lines 12-15).

It would have been obvious for one of ordinary skill in the art to modify the cleaning device of Earle to be comprised of foam in a cube shape, as Grossmeyer teaches, so that the cleaning device is capable of retaining dust better and a cube provides additional cleaning surfaces that would be capable of performing cleaning.

6. Claims 6 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grossmeyer, USPN 2,940,100 and Earle, USPN 5,806,135 as applied to claim 14, in view of Fraser, USPN 3,748,684.

Grossmeyer and Earle disclose all elements above, however do not particularly disclose that the foam is an open-celled structure.

Fraser discloses a blackboard eraser that comprises an open celled foam (the term interconnected cells and open cells are used in the art interchangeably and describe the same cell structure in a foam) that is beneficial for removing chalk marks as it is capable of absorbing and retaining chalk dust for a considerable amount of time (Column 2 Lines 7-20).

It would have been obvious for one of ordinary skill in the art to substitute the sponge like foam of Grossmeyer and Earle, for an open celled foam, as Fraser teaches,

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so that the chalkboard eraser would have the ability of retaining chalk dust for a long time, thereby increasing the eraser's usable lifespan.

7. Claims 9 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grossmeyer, USPN 2,940,100 and Earle, USPN 5,806,135, and Fraser, USPN 3,748,684 as applied to claim 6, in view of Frazier, USPN 6,367,115.

Grossmeyer, Earle, and Fraser disclose all elements above, however do not disclose that there is a whiteboard conditioning fluid impregnated into the open celled foam.

Frazier discloses an eraser that is impregnated with an organosilicone fluid, such as Polyalkyleneoxide modified polydimethylsiloxane to increase dust holding abilities and anti-static properties (Column 4 Lines 40-47).

It would have been obvious for one of ordinary skill in the art to modify the open celled foam of Grossmeyer, Earle, and Fraser, to be impregnated with a whiteboard conditioning fluid, as Frazier teaches, so that the eraser has increased dust holding abilities and anti-static properties.

8. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Grossmeyer, USPN 2,940,100, Earle, USPN 5,806,135, Fraser, USPN 3,748,684, and Frazier, USPN 6,367,115 as applied to claim 16.

Grossmeyer, Earle, Fraser, and Frazier disclose all elements above, however do not disclose that the holding apparatus is felt.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the holding apparatus comprise felt, since it has been held

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to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious engineering choice. In re Leshin, 125 USPQ 416.

9. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Grossmeyer, USPN 2,940,100 and Earle, USPN 5,806,135 as applied to claim 10, in view of Frazier, USPN 6,367,115.

Grossmeyer and Earle disclose all elements above, however do not disclose that there is a whiteboard conditioning fluid impregnated into the open celled foam.

Frazier discloses an eraser that is impregnated with an organosilicone fluid, such as Polyalkyleneoxide modified polydimethylsiloxane to increase dust holding abilities and anti-static properties (Column 4 Lines 40-47).

It would have been obvious for one of ordinary skill in the art to modify the open celled foam of Grossmeyer and Earle, to be impregnated with a whiteboard conditioning fluid, as Frazier teaches, so that the eraser has increased dust holding abilities and anti-static properties.

Response to Arguments

10. Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Guidotti whose telephone number is (571) 272-1272. The examiner can normally be reached on Monday-Thursday, 7:30am - 5pm, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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